

## REMARKS / ARGUMENTS

In the Final Office Action of November 18, 2003, claims 1-16 are rejected under 35 U.S.C.103(a) being unpatentable over Feola, Patent No. 5,839,731. I respectfully disagree with this conclusion. Reconsideration of this application under my arguments below is respectfully requested.

Each of the following steps of the teaching of Feola that the examiner cited in the Final Office Action will be compared to each of the respective steps of the teaching of my present invention; and said steps will be discussed and argued below:

**1. Feola teaches that a card game with a plurality of players (col.3, lines 39-43).**

Feola, all patented card games invented before and after the card game of Feola, and my present invention all teach a card game with a plurality of players. This common teaching is one of the steps of a method of playing any given card game, which apparently does not make any two of said games patentably identical.

**2. Feola teaches providing and shuffling at least one standard poker deck of cards and at least one Joker (col.3, lines 11-16);**

From reading column 3, lines 11-16 of Feola, I found that Feola teaches providing and shuffling at least one standard poker deck of cards **without** disclosing at least one Joker. And I found that Feola discloses Wild Cards or Jokers, but **excluding** the version of only one Joker (col. 6, lines 1-4). Although Feola does not stipulate the function of a Wild Card or Joker; generally speaking, a Wild Card or Joker is used as any card.

My present invention also teaches providing and shuffling at least one standard poker deck of cards plus at least one but preferably one Joker (page 2, lines 29-32). Furthermore, the function of the Joker of my present invention is preferably used as an Ace or to complete a Straight or Flush (page 2, lines 34-35).

Because of the differences in the number and functions of Jokers, the odds, payoff amount, and house advantage of the two games differ vastly.

**3. Feola teaches each player placing at least one bet (see abstract and claim 1);**

Feola actually teaches each player placing at least one bet or, preferably one or up to six bets, betting the hand of said bet is either the highest ranking hand or the lowest ranking hand, whichever is selected before the game starts, among six dealt hands (see claim 1). Generally, only one hand wins in each round of play.

While my present invention teaches each player placing a Poker wager betting against the dealer's hand and/or a Pair Of Aces Or Better wager betting against the contents of the player's own hand (page 3, lines 5-9). Generally, multiple hands can win in each round of play.

Since two said games offer a different number and different types of bets, and have different objectives, they are patentably distinct from each other.

**4. Feola teaches dealing seven card hands to player and dealer (col. 5, lines 40-48);**

From reading the column 5, lines 40-48 of Feola, I found Feola discloses each hand may have 7 cards, and does not mention dealing seven card hands to each player and the dealer. I also found that Feola teaches that a number of hands, preferably six hands, are dealt on a playing surface, neither each player nor the dealer receives any cards.

My present invention teaches that each player and the dealer each receives his or her own seven dealt cards (page 3, lines 8 & 9), and provides players card reading enjoyment.

Accordingly, my present invention provides players card reading enjoyment while Feola does not.

**5. Feola teaches resolving games and wagers (claims 16 & 17).**

Feola teaches that at least one player chooses whether the winning combination has the highest poker ranking hand among said dealt hands or the lowest poker ranking hand among said dealt hands (claim 17); and if the hand of the player's wager has the winning combination, the player's wager wins (claim 15) and is paid a multiple of said winning wager (claim 15) wherein said multiple depends upon the odds of obtaining the combination of said cards in said winning combination (claim 16).

My present invention teaches that if a Player's best 5-card poker hand ranks higher than the dealer's best 5-card poker hand, the player's Poker wager wins and either is paid Even Money (1 to 1) if the dealer's losing hand is King-Queen or higher, or is paid one half of the player's wager (1 to 2) if the dealer's losing hand is King-Jack or lower; the player's wager pushes if the player's and the dealer's best 5-card poker hand rank the same; and the player's wager loses if the player's best 5-card poker hand ranks lower than the dealer's (page 3, lines 27-32). My present invention also discloses that a player's Pair Of Aces Or Better wager wins if the player's best 5-card poker hand is a pair of Aces, Two Pair, 3 of a Kind or better, and is mostly paid Even Money (1 to 1) (page 4, lines 31-38); there is a small chance that the player's winning wager is paid more than Even Money.

Step 5 shows that Feola and my present invention disclose different game objectives, different ways of determining a winning wager, and different payoff amounts.

**Comparing** the five steps of the teachings of Feola and my present invention, many differences can be found between them, particular in the number of jokers and how a joker is used, the number and types of bets, the ways each player receives his or her cards, the ways games and wagers are resolved. Because of said differences, a number of vast differences in the odds,

ranking hands, payoffs amount, and house advantage of two said teachings are resulted. Accordingly, my present invention, as now claimed, is neither shown nor suggested by Feola, and is patentably distinct from Feola.

**Lo (US-5,863,042 & US-6,402,147), Webb (US-6,012,720), English (US-5,984,310) and Breeding (US-6,019,374) are cited to show the state of art with respect to features of the claimed invention. Reconsideration of this application under my arguments below is respectfully requested:**

**Lo (US-5,863,042):**

Lo (patent # 5,863,042) is one of my prior patents. It teaches steps of a method of playing a card game, which are different from my present invention in the following ways:

**1. Cards Used And Number Of Cards In Each Hand:**

Lo teaches providing and shuffling at least one standard poker deck of cards (see abstract) and discloses that each hand consists of five cards. While **my present invention** teaches providing and shuffling at least one standard poker deck of cards plus at least one joker, and discloses that each hand consists of seven cards (see abstract).

The odds, payoff amount, and house advantage of one game played with at least one standard poker deck of cards with no joker would differ significantly from the odds, payoff amount, and house advantage of another game played with at least one standard poker deck of cards with at least one joker. Said differences will be greater if the former game consists of five cards each hand and the latter game consists of seven cards. Accordingly, said differences between the teachings of Lo and my present invention in step 1 apparently make them two different games.

**2. Types Of Bets Offered:**

Lo teaches each player placing a primary wager betting that the player's two-card Low hand and three-card High ranking higher than both of the dealer's respective two-card Low hand and three-card High hand, and/or one or more secondary wagers betting on the contents of the player's own hand (col. 1 lines 36-38, 43-48 & 63-64); the rankings and the contents of hands are based on a new concept that is the combination of some conventional poker ranking hands and baccarat rankings, which might not be known to many poker players.

**While my present invention** teaches each player placing a Poker wager (primary wager) betting that the player's best 5-card poker hand ranks higher than the dealer's best 5-card poker hand, and/or a Pair Of Aces Or Better wager (secondary wager) betting against the contents of the player's own hand (see abstract); the rankings of the Poker game and the contents of hands of the Pair Of Aces Or Better game are entirely based on familiar conventional poker rankings (page 4, lines 32-34), which are already known to poker players.

**According**, the objectives of the Poker bet and side bet of my present invention are quite different from the objectives of the Poker bet and side bet of Lo.

### 3. Setting A Player's Hand:

Lo teaches dealing five cards to each player and the dealer, and then each player and the dealer each arranges said five cards into two hands, two-card Low hand and three-card High hand (col. 1, lines 43-48); each said arrangement of cards requires skill because there are many ways to arrange five cards into two said hands. If a player arranges the player's five cards into two hands that the two-card Low hand ranks higher than the three-card High hand, it is called 'a foul hand,' the player automatically loses the player's primary wager if the player is not allowed to reset his or her hand (col. 3, lines 41-43). Furthermore, in this teaching, in order to maximize a player's expected return, each player must use a player optimal strategy to set each player's hand, and in order to maximize a dealer's expected return, the dealer must use a dealer optimal strategy, called 'House Way,' to set the dealer's hand.

While **my present invention** teaches each player and the dealer each receives seven cards, and then each player and the dealer each selects and keeps his or her best 5-card poker hand and discards two cards (see abstract); each said selection of cards requires no skill because there is only one way to select a best 5-card hand from seven cards. My present invention discloses no Foul Hand Rules.

**Accordingly**, the differences between two said games are: 1) Lo teaches arranging each seven cards into two hands; while my present invention teaches selecting one best 5-card poker hand and discarding two lowest cards from each seven dealt cards. 2) The teaching of Lo requires a player optimal strategy and a dealer optimal strategy known as 'House Way,' while the teaching of my present invention requires neither a player optimal strategy nor a dealer optimal strategy. 3) Lo discloses Foul Hand Rules while my present invention does not.

### 4. Resolving Games And Wagers:

Lo teaches that a player's primary wager wins if both of the player's Low and High hands rank higher than both of the dealer's respective Low and High hands according to the rankings listed below; it is a push if the player wins one hand and loses the other; and it loses if both of the player's Low and High hands rank lower than both of the dealer's respective Low and High hands (col. 3, lines 37-56) or if the player has a foul hand wherein the player's Low hand ranks higher than the player's High hand. And a player's secondary wager wins if the player's 5-card hand is one of predetermined winning hands which mainly consist of One Pair, Two Pair, 3 of a Kind, Full House and 4 of a Kind, excluding the traditional poker ranking hands of Straights and Flushes (col. 5 lines 65-67); the ranking hands of Lo are ranked in the following order, from high to low (col. 4, lines 30-60):

1. 3 of a Kind
2. One Pair
3. Point Value 9
4. Point Value 8
5. Point Value 7
6. Point Value 6
7. Point Value 5

8. Point Value 4
9. Point Value 3
10. Point Value 2
11. Point Value 1
12. Point Value 0

**While my present invention** discloses that if a player's best 5-card poker hand ranks higher than the dealer's best 5-card poker hand, the player's Poker (primary) wager wins and is paid according to one of six sets of rules, whichever is selected for the game; it is a push if the player's best 5-card poker hand ranks the same as the dealer's; and it loses if the player's best 5-card poker hand ranks lower than the dealer's (page 3, lines 27-40, & page 4, lines 1-29). A player's side (secondary) wager wins if the player's 5-card hand is one of predetermined winning hands which consist of a pair of Aces, Two Pair, 3 of a Kind, Straight, Flush, Full House, 4 of a Kind, Straight Flush, Royal Flush or 5 Aces, and the winning wager is paid according to the predetermined pay table designed for said side wager (page 4, lines 30-42); the ranking hands of my present invention (page 3, lines 17-20) are ranked in the following order, from high to low:

1. Royal Flush
2. 5 of a Kind
3. Straight Flush
4. 4 of a kind
5. Full House
6. Flush
7. Straight
8. 3 of a Kind
9. Two Pair
10. One Pair
11. High Card

**Accordingly**, my present invention and Lo use neither the same kind of cards (regarding jokers) nor the same number of cards, offer the types of bets that have different objectives, teach different number of cards that each player receives, do not use identical rankings, set a player's hand in different ways, and resolve games and wagers differently. Thus, the odds, ranking hands, payoffs amount, and house advantage of two said games differs vastly, making two said games patentably distinct from each other.

**Lo (US-6,402,147):**

A Terminal Disclaimer To Obviate A Double Patenting Rejection Over A Prior Patent of Lo, patent US-6,402,147, had been filed to overcome this objection in my Response To Office Action 01 mailed September 08, 2003.

**Webb (6,012,720):**

Each of the following steps of the teaching of Webb the Examiner cited in this Office Action will be compared to each of the similar steps of the teaching of my invention accordingly; and said steps will be discussed and argued below:

**1. Cards Used:**

**Webb** teaches providing and shuffling at least one standard poker deck of cards and one wild card (e.g., a joker, a promotional card or an implicit card) (see claim 1); each player and the dealer each always receives six cards and one community joker, totaling seven cards (see abstract).

**My present invention** teaches providing and shuffling at least one standard poker deck of cards and at least one joker; every player and the dealer each receives seven cards, among them some player's cards and/or the dealer's cards might contain one or more jokers while the rest of the players' cards and/or the dealer's cards might contain no joker (see abstract).

When a player receives one or more jokers, the player generally has an advantage over his or her opponent; thus the player would feel excited when the player receives one or more jokers. In Webb's teaching, a player will not feel excited when the player receives a joker, because the player knows that his or her opponent also receives the community joker at the same time. On the contrary, in my present invention a player would feel very excited when the player receives one or more jokers, because the player knows that his or her opponent will have little or no chance of getting one or more jokers (see abstract).

**2. Types Of Bets Offered:**

**Webb** teaches that each player may place a Double Hand wager betting that the player's 2-card Low hand and 5-card High hand rank higher than the dealer's respective 2-card Low hand and 5-card High hand, and an optional Copy Hand wager betting that the player and the dealer have a copy Low hand and/or a copy High hand (col. 2, lines 19-20).

**My present invention** teaches that each player may place a Poker wager betting that the player's best 5-card ranks higher than the dealer's best 5-card poker hand, and/or a Pair Of Aces Or Better wager (secondary wager) betting against the contents of the player's own hand (see abstract).

The teaching of Webb always requires a player to place a Double Hand wager betting against the dealer's hand even when the dealer is having a winning streak (lucky or hot); on the contrary, my present invention provides a player the flexibility that a player can just place a Pair Of Aces Or Better wager betting on the content of the player's own hand and does not have to bet against the dealer's hand when the dealer is hot. Moreover, the types of bets Webb discloses obviously differ from the types of bets my present invention discloses. Accordingly,

Webb fails to teach the identical types of bets as outlined in the limitation of the claims of my present invention.

### **3. The Type Of Cards Each Player Receives And How A Hand Is Set:**

**Webb** teaches that every player and the dealer each always receives one community joker or a community wild indicia and six cards his or her own, totaling seven cards; every player and the dealer each then forms five-card High hand and two-card Low hand from said seven cards (see abstract). If a player arranges the player's seven cards into two hands that the two-card Low hand ranks higher than the five-card High hand, it is called 'a foul hand,' the player automatically loses the player's Double Hand wager. In order to maximize a player's expected return, each player must use a player optimal strategy to set each player's hand, and in order to maximize a dealer's expected return, the dealer must use a dealer optimal strategy called House Way to set the dealer's hand.

**My present invention** teaches that every player and the dealer each receives seven cards their own and no community card; and each player and the dealer each selects and keeps the best 5-card poker hand and discards two cards (see abstract). In my present invention, there are no foul hands because there is only one best way to set a hand, and neither a player optimal strategy nor a dealer optimal strategy is needed to set any given hand.

In this step, the teaching of Webb and the teaching of my present invention differ substantially.

### **4. Resolving games and wagers:**

**Webb** teaches that to win a Double Hand wager, both of a player's High and Low hands must rank higher than both of the dealer's respective High and Low hands; if the player wins one hand and loses the other, then the player's Double Hand wager is a push; and if both of the player's High and Low hands rank lower than both of the dealer's High and Low hands respectively, the player's wager loses (col. 4, lines 49-56); moreover, the rules of Copy Hands are taken into consideration in resolving the game of the Copy Hand wager (col. 4, lines 59-64). Webb also teaches that to win a Copy Hand wager, the High hand, Low hand, or both of the player's High and Low hands must rank the same as the High hand, Low hand, or both of the dealer's High and Low hands respectively (col. 5, lines 17-24); and a winning Copy Hand wager is paid according to a predetermined Copy Hand pay table (col. 5, lines 44-49), and the winning hands are listed as follows:

1. Wild Low Copy
2. Semi Wild Low Copy
3. Natural Low Copy
4. Wild High Copy
5. Semi Wild High Copy
6. Natural High Copy
7. Any Double Copy

**In my present invention**, a player's Poker wager wins if a Player's best 5-card poker hand (selected from the player's seven dealt cards) ranks higher than the dealer's best 5-card poker hand (selected from the dealer's seven dealt cards) and preferably either is paid Even Money (1 to 1) if the dealer's losing hand is King-Queen or better, or is paid one half of the player's wager if the dealer's losing hand is King-Jack or lower; it is a push if the Player's best 5-card poker hand ranks the same as the dealer's; and it loses if the Player's best 5-card poker hand ranks lower than the dealer's (page 3, lines 27-32). And the player's Pair Of Aces Or Better wager is resolved as that if a player's best 5-card poker hand is a pair of Aces, Two Pair, 3 of a Kind, Straight, Flush, Full House, 4 of a Kind, Straight Flush, Royal Flush or 5 Aces; this winning wager is paid mostly Even Money (1 to 1); and there is a little chance the winning wager is paid more than Even Money (page 4, lines 31-38).

**Accordingly**, in the step 4 we can find that unlike the teaching of Webb, my present invention teaches that to win a Poker bet, a player does not have to have the player's two-card Low hand and five-card High hand rank higher than the dealer's two-card Low hand and five-card High hand respectively. Moreover, my present invention discloses no Copy Hand Rules, which would complicate a game. And it is apparent that the Copy Hand bet of Webb and the Pair Of Aces Or Better bet of my present invention teach different objectives and different payoff amounts. It is obvious that my present invention, as now claimed, is neither shown nor suggested by Webb in this step.

**Comparing** the four steps of the teachings of Webb and my present invention, many differences can be found between them, particular in the number of jokers and how a joker is used, the types of bets offered, the ways and types of cards each player receives (Webb teaches that every player and the dealer always receive one community Joker), how the cards are set, the ways games and wagers are resolved. Because of said differences a number of differences in the odds, ranking hands, payoffs amount, and house advantage of two said teachings are resulted. And said results make two said games patentably distinct from each other.

**English (5,984,310):**

**English** mainly teaches that a casino card game uses a standard poker deck of 52 cards, and after each player placing an initial wager, five cards are then dealt to each player and seven cards are dealt to the dealer; then each player may then inspect the original dealt hand, and elect to stay pat, or mainly discard and draw one or two cards; if the player elects to draw, the player then inspect the new draw hand and either fold the initial wager or place a second wager to stay with the draw hand; the player's hand is then compared to the dealer's best 5-card poker hand selected from the dealer's seven dealt cards according to conventional poker rankings; if the player stays pat and has a higher hand than the dealer's, the player wins and is paid odds on the initial wager; if the player stays with the draw hand and has a hand ranking higher than the dealer's, the player wins and is paid Even Money on both the initial and second wagers; if player's and the dealer's hand rank the same, then a "push" will result and the player neither



wins nor loses money (see claim 1). In addition, a jackpot bet may be included; if the player's hand is one of a predetermined ranks, the player's jackpot bet wins and is paid according to either a higher payout schedule for a qualified pat hand, or a lower payout schedule for a qualified draw hand (col. 3, lines 35-46). Two said payout schedules (col. 3, lines 48-57) are as follows:

| Pat Hand Pay Out Schedule   | Draw Hand Pay Out Schedule  |
|-----------------------------|-----------------------------|
| Royal Flush-----1,000 to 1  | Royal Flush-----500 to 1    |
| Straight Flush-----750 to 1 | Straight Flush-----100 to 1 |
| 4 of a Kind-----500 to 1    | 4 of a Kind-----50 to 1     |
| Full House-----200 to 1     | Full House-----20 to 1      |
| Flush-----100 to 1          | Flush-----4 to 1            |
| Straight-----50 to 1        | Straight-----2 to 1         |
| 3 of a Kind-----5 to 1      |                             |

**My present invention** teaches that a card game uses a standard poker deck of 52 cards plus at least one joker (page 2, lines 29-32). After a player places a Poker wager betting against the dealer's hand and/or a Pair Of Aces Or Better wager betting against the contents of the Player's own hand, every player and the dealer each then receives his or her own seven cards, and then selects and keeps his or her best 5-card poker hand and discards two cards from his or her own seven cards (page 3, lines 5-15). A player's Poker wager wins if a Player's best 5-card poker hand ranks higher than the dealer's best 5-card poker hand and, either is paid Even Money (1 to 1) if the dealer's losing hand is King-Queen or better or is paid one half of the wager (1 to 2) if the dealer's losing hand is King-Jack or lower; it is a push if the Player's best 5-card poker hand ranks the same as the dealer's; and it loses if the Player's best 5-card poker hand ranks lower than the dealer's (page 1, lines 36-39 & page 2, lines 1-4)). And the player's Pair Of Aces Or Better wager is resolved as that if a player's best 5-card poker hand is a pair of Aces, Two Pair, 3 of a Kind, Straight, Flush, Full House, 4 of a Kind, Straight Flush, Royal Flush or 5 Aces; this winning wager is paid mostly Even Money (1 to 1); and there is a little chance the winning wager is paid more than Even Money (page 4, lines 32-38).

**Comparing** the teachings of two said games, many differences can be found among them, such as English discloses no joker while my present invention discloses at least one joker, which is purposely designed to enhance a player's excitement; English teaches a draw poker game while my present invention teaches a stud poker game; English offers the option of second round betting, while my present invention does not; English teaches that an additional jackpot bet may be added, while my present invention does not teach such option. A draw poker game generally requires players discarding and receiving the same number of cards, this process requires a player using a player optimal strategy to properly discard the player's card or cards in order to maximize a player's expected return; while a stud poker game requires no such card drawing and no player optimal strategy; English discloses two pay tables while my present invention discloses one pay table. Accordingly, the odds, pays off amount, and house advantages of said two games differ vastly, making two said game patentably distinct from each other.

**Breeding (6,019,374):**

**Breeding** teaches a very popular casino card game called Let It Ride, which is being played in casinos across the United States. It is a multi-tiered wagering game, played with one standard poker deck of 52 cards (col. 3, lines 18 & 19). After each player typically placing an initial wager (by putting three equal amounts (three parts of the bet) in each of the three specified betting areas) to play the basic game and an optional wager and/or an entry fee to participate in the multi-tiered game, two face-down cards are dealt to the dealer and three face-down cards are dealt to each player. After each player inspects his or her cards and decides whether to withdraw first part of the bet; then the dealer turns over one of the dealer's two cards and each player again decides whether to withdraw a second part of the bet, subsequently the dealer turns over the dealer's second card and each player's three cards, and settles the player's first wager first, then the player's remaining wagers; all winning wagers are paid according to their predetermined pay table. Also based on the shown cards, players who placed the optional second wager and/or entry fee become eligible for bonus payouts and/or to become eligible to participate in a second game to determine the winner of a super jackpot, respectively (see abstract).

**My present invention** teaches that a card game uses a standard poker deck of 52 cards plus at least one joker (page 2, lines 29-32). After a player places a Poker wager betting against the dealer's hand and/or a Pair Of Aces Or Better wager betting against the contents of the Player's own hand, every player and the dealer each then receives his or her own seven cards, and then selects and keeps his or her best 5-card poker hand and discards two cards from his or her own seven cards (page 3, lines 5-15). A player's Poker wager wins if a Player's best 5-card poker hand ranks higher than the dealer's best 5-card poker hand and, either is paid Even Money (1 to 1) if the dealer's losing hand is King-Queen or better or is paid one half of the wager (1 to 2) if the dealer's losing hand is King-Jack or lower; it is a push if the Player's best 5-card poker hand ranks the same as the dealer's; and it loses if the Player's best 5-card poker hand ranks lower than the dealer's (page 1, lines 36-39 & page 2, lines 1-4)). And the player's Pair Of Aces Or Better wager is resolved as that if a player's best 5-card poker hand is a pair of Aces, Two Pair, 3 of a Kind, Straight, Flush, Full House, 4 of a Kind, Straight Flush, Royal Flush or 5 Aces; this winning wager is paid mostly Even Money (1 to 1); and there is a little chance the winning wager is paid more than Even Money (page 4, lines 32-38).

**Comparing** the teachings of two said games, many differences can be found among them, such as Breeding discloses no joker while my present invention discloses at least one joker, which is designed to enhance a player's excitement; Breeding offers players the opportunities to withdraw first and second parts of bet after inspecting his or her three cards and one of the dealer's two cards, while my present invention does not; Breeding teaches that players can participate in the second game to win a super jackpot, while my present invention does not offer such option. The process of deciding whether to withdraw the first and second parts of the basic wager requires a player using a player optimal strategy in order to maximize a player's expected return, and this process would cost more time than that of the teaching of my present invention, which requires no decision regarding whether withdrawing wagers and needs no player optimal strategy. Accordingly, the ways of games and wagers resolved, the odds, pays off amount, and house advantages of said two games differ vastly, making two said games patentably distinct from each other.

### **CONCLUSION**

The objective of my present invention is to give players a longer and more enjoyable gaming experience while giving casinos a fair return on investment; thus, my present invention is designed to be that decisions are minimal, pace is fast and atmosphere social. It is novel and clearly defined over the prior art of Feola, Lo (US-5,863,042), Webb, English and Breeding, and is not a merely obvious combination of elements from the cited games. I believe that the foregoing arguments shall reasonably overcome the claim rejections under 35 U.S.C. 103(a) as being unpatentable over Feola in view of Lo, Webb, English, and Breeding in this Office Action. I cordially invite the Examiner to contact me for a telephone interview regarding this case.

Respectfully submitted,



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